IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
HYDERABAD

AT (Special Original Jurisdiction)

FRIDAY, THE FIRST DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION Nos. 4643 and 21345 of 1999

-

WRIT PETITION No. 4643 of 1999

Between:

Syed Israr, S/o Syed Ismail,

Aged 32 years, Driver, E.No.203598,

H.No.1-6-245, Musheerabad, Zamistanpur,

Hyderabad. **..... PETITIONER**

AND

1. Depot Manager, APSRTC,

Kukatpally Depot, Hyderabad.

2. APSRTC, rep by sits Managing

Director, Musheerabad, Hyderabad.

3. The Presiding Officer,

Additional Industrial Tribunal-cum-

Labour Court, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the

circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order or orders or directions particularly in the nature of Writ of Certiorari calling for the records pertaining to I.D.No.94/96 on the file of the Additional Industrial Tribunal-cum-Labour Court, Hyderabad and set aside the punishment imposed on the petitioner by the first respondent once the charges are not proved beyond all reasonable doubts and directing the respondents to give remaining 50% of back wages from the date of removal of the service of the petitioner in the interest of justice and pass such other order or orders as this Hon'ble High Court deems fit and proper in the circumstances of the case.

Counsel for the Petitioner:MR.M.V.RAJA RAM

Counsel for the Respondent Nos. 1 & 2: V.T.M.PRASAD

Counsel for the Respondent No.3: G.P FOR LABOUR.

-

-

-

-

-

WRIT PETITION No. 21345 of 1999

Between:

APSRTC, Rep by its Depot Manager,

Kukatpally Depot, Hyderabad District.

..... PETITIONER

AND

1. Syed Israr, S/o Syed Ismail,

Aged 32 years, Driver, E.No.203598,

H.No.1-6-245, Musheerabad, Zamistanpur,

Hyderabad.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly in the nature of Writ of Certiorari by calling for the records from the 1st respondent in I.D.No.94 of 1996 dt.26-06-1998 published in G.O.RT.No.1490 dt.29-08-1998 on the file of the Hon'ble Additional Industrial Tribunal-cum-Additional Labour Court, Hyderabad i.e. 1st respondent herein and quash the Award and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner:MR. V.T.M. PRASAD.

Counsel for the Respondent : MR.M.V.RAJA RAM FOR

The Court made the following :

THE HONOURABLE SRI JUSTICE

C.V.RAMULU

W.P.NOS. 4643 & 21345 OF 1999

-

ORDER

Workman filed W.P.No.4643 of 1999, being aggrieved by the award passed in ID.No.94 of 1996 dated 26th June 1998, on the file of the Additional Industrial Tribunal-cum-Additional Labour Court at Hydrabad, insofar as denying 50% of the back-wages while directing his reinstatement.

It is the case of the petitioner that he was appointed as driver in APSRTC., and was discharging duties to the utmost satisfaction of his superiors. While so, when he was driving the Bus No. AP 9Z 4350 of the respondent Corporation on 9-3-1994 opposite to Yerragadda Hospital, on account of one tourist bus being driven rashly and negligently coming in the opposite direction an accident occurred with a scooter bearing No. AP-23 3728 which was also coming in the opposite direction. In the result, the pillion rider fell on the right side of the bus and she died instantaneously as the bus bearing No.AAZ 8959 of Jeedimetla Depot, which was going towards Ameerpet ran over partly on the left side head portion of the pillion rider. On a report submitted by the concerned officer the following charges were framed:-

1. *For your rash and negligent driving on 9-3-1994 with vehicle No.AP 9Z 4350 resulting in collusion with scooter bearing No.AP 23 3728, the Scooterist and the pillion rider fallen on the road, another bus AAZ 8959 ran over the pillion rider and died on the spot, which constitutes misconduct in terms of Reg..28 (ix-a-b) of APSRTC Employees (Conduct) Regulations 1963.*

2. *For not taking precautionary measures to aver the collusion with scooter No.AP 23 3728 while operating the bus No.AP 9Z 4350 on 9-3-94 which constitutes misconduct in terms of Reg.28 (xxxii) of APSRTC Employees (Conduct) Regulations 1963.*

A detailed enquiry was conducted and without there being any evidence the petitioner was removed from service. Aggrieved by the same, petitioner filed the claim petition under Section 2-A (2) of Industrial Disputes Act, 1947 before the Additional Industrial Tribunal-cum-Additional Labour Court, Hyderabad.

A detailed counter affidavit was filed by the Management denying the allegations made by the petitioner. Though none was examined on behalf of the petitioner and the respondent Management, on behalf of the petitioner Ex.W.1 was marked and on behalf of the respondent Management Exs.M.1 to M.18 were marked.

After considering the entire evidence on record, the labour Court came to the conclusion that charge No.1 is not proved and only charge No.2 is proved on the basis of evidence of the Security Assistant Sub-Inspector of K.P Depot in Ex.M.9, and the preliminary enquiry conducted by the respondents. Therefore, the labour Court held that the petitioner was guilty of charge No.2 and therefore the punishment of removal is shockingly disproportionate to that of the misconduct alleged, and as such directed the management, to reinstate the petitioner into service with continuity of service and all attendant benefits with 50% back-wages. Aggrieved by the same, the present writ petition in WP.No.4643 of 1999 is filed by the workman, challenging insofar as the denial of 50% back-wages.

The learned counsel for the respondent-Management strenuously contended that the management aggrieved by the very same order under challenge filed WP.No.21345/1999 and absolutely there was no necessity for the labour Court to interfere with the findings of the enquiry officer and the disciplinary authority.

Further, the petitioner was involved in a bus accident and the only evidence that could be produced before the enquiry officer was that of the enquiry conducted by the Department and the Security Sub-Inspector of K.P Depot, and no other evidence was produced before the E.O or the tribunal. Therefore, the findings of the tribunal that only charge No.2 was proved and charge No.1 was not proved is not correct. The labour Court has grossly erred in exercising its powers vested under Section 11-A of the Industrial Disputes Act in granting relief.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and gone through the award passed by the labour Court and also material available on record.

This is a case of rash and negligent driving on the part of the petitioner-driver and also for not taking precautionary measures to avert the collision with the scooter. The petitioner-driver has explained the nature of the accident how it happened. However, the preliminary enquiry conducted by the APSRTC., and the evidence of the Assistant Security Sub-Inspector have categorically proved that there was some negligence on the part of the petitioner which resulted in collision with the scooterist wherein the pillion rider fell down and ultimately died on the spot. It cannot be said that there is no negligence on the part of the driver of the bus at least in not taking precautionary measure to avert the collision. This finding of the labour Court that

charge No.2 was proved and therefore the petitioner was entitled only for the reinstatement with 50% of the back-wages cannot be said to be unreasonable and does not call for interference of this Court under Article 226 of the Constitution of India. Therefore the Writ Petition No.4363 of 1999 is devoid of merits and is liable to be dismissed and it is accordingly dismissed. No costs.

W.P.No.21345 of 1999

For the very same reasons the writ petition filed by the Management in WP.No.21345 of 1999 is also liable to be dismissed and accordingly it is dismissed. No order as to costs.

_____

01st July, 2005

grk

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. Depot Manager, APSRTC,

Kukatpally Depot, Hyderabad.

2. APSRTC, rep by sits Managing

Director, Musheerabad, Hyderabad.

3. The Presiding Officer,

Additional Industrial Tribunal-cum-

Labour Court, Hyderabad.

4.The Additional Industrial Tribunal-cum-

Additional Labour Court, Chandra Vihar,

Hyderabad.

5) 2 CD copies